

**From:** hawks@night-hawks.com@inetgw  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

I would like to submit my comments regarding the proposed settlement of the case of the United States of America vs. Microsoft Corp. Action No. 98-1232 as provided by the Tunney Act.

In my opinion, as a worker in the computer industry for over 7 years familiar with Microsoft (MS) products as well as a large number of other Operating Systems (OSs) and products, I do not feel the proposed settlement will significantly impact MS's current monopoly or its illegal activities as a monopoly.

While the settlement does provide for the release of API's for the Windows OS and communications protocols itself, it does not provide for the release of documentation of file formats used in its other products, specifically but not limited to the Microsoft Office Suite. MS's other software products besides the OS are a very large part of why MS has become a monopoly and can use that power in an illegal manner. The vast majority of work done in the corporate world, is done using MS Office. Competing Office suites from Apple Computer, Sun Microsystems and others can not accurately and completely interoperate with electronic documents produced using MS Office due to the closed file format. Forcing MS to release full and complete documentation of the file formats used for all of its products would have no direct effect on MS's ability to market or sell such products. It would however allow competing products from other manufacturers to properly interoperate with the defacto standard for electronic documentation in the corporate workplace. This single remedy would do more to halt Microsoft's illegal practices than any currently listed in the proposed settlement.

The settlement also limits to whom MS must release documentation about the Windows OS and communications protocols APIs to third parties that "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business", from Article III, section J, paragraph 2, subsection c. From the same paragraph, subsection d, the settlement proposes that any 3rd party "agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API...". Both of these provisions can very easily be used by MS to prevent Open Source Software (OSS) projects from obtaining and using APIs from MS OSs or middleware products. OSS projects have no viable business per se, as they are written almost exclusively for the purpose of free distribution without commercial gain. Also OSS projects are written by volunteers without financial backing. MS can very easily use the previously mentioned articles of the proposed

settlement to only 'Approve' 3rd party verification that has excessive costs involved further preventing OSS projects from ever being able to provide interoperable and or competing products to MS's OS or middleware products.

The proposed settlement has more such loopholes that work solely in the favor of MS and do nothing to provide remedies for MS's illegal actions as a monopoly. As such, it is my opinion that the proposed settlement be declared invalid by the Federal Courts and a proper remedy including the release of full and complete documentation of file formats, OS APIs, Middleware APIs and communications protocols be made public and freely available, without restrictive or exclusive licensing or verification procedures to all 3rd parties including, but not limited to ISV, HSV, OEM, OSS projects and manufacturers of competing products for the purpose of interoperability.

While further remedies may also be required to ensure MS's compliance with a final judgement and to enforce monetary or punitive damages for their past illegal actions, any final remedy that does not address the issues I have mentioned will fail to effectively alter MS's monopoly position or its continued illegal actions.

MS has a documented history of breaching previous agreements reached with the US DOJ and during the trial exhibited nothing but contempt for the trial and the legal process, including falsifying testimony and evidence. Any and all loopholes in this settlement will be exploited by MS to further their illegal monopolistic actions. To prevent this, MS's lawyers, or employees direct or indirect should have no input on the final remedy.

Sincerely,

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